

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KENNETH FERENCE,

Plaintiff,

vs.

ROMAN CATHOLIC DIOCESE OF
GREENSBURG,

Defendant.

ELECTRONICALLY FILED

No. 2:22-cv-00797-NR-MPK

District Judge J. Nicholas Ranjan
Magistrate Judge Maureen P. Kelly

JURY TRIAL DEMANDED

**MOTION TO EXEMPT CASE FROM COURT’S MANDATORY ALTERNATIVE
DISPUTE RESOLUTION PROGRAM**

AND NOW comes Defendant Roman Catholic Diocese of Greensburg (“Diocese”) through its counsel, Bernard P. Matthews, Jr. Esquire and Alexander W. Brown, Esquire, of Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. and Philip J. Murren, Esquire, David R. Dye, Esquire, and Katherine M. Fitz-Patrick, Esquire of Ball, Murren & Connell, LLC, and files this Motion to Exempt Case from Court’s Mandatory Alternative Dispute Resolution Program.

1. During the Court’s initial case management conference, the Diocese “stated that it does not intend to make any offer” to compromise during any alternative dispute resolution (“ADR”) process and “declined participation in any form of ADR, including the Court’s suggestion of participation in ENE.” (ECF No. 32 ¶ 5.)

2. This statement is consistent with the Diocese’s and Plaintiff Mr. Ference’s position regarding ADR expressed in their Rule 26(f) report. (ECF No. 28 p. 2 ¶ 6.)

3. The pertinent portion of the Parties’ Rule 26(f) report states: “Defendant gives notice to Plaintiff and the Court that it does not intend to make any offer of

settlement during any alternative dispute resolution proceeding. Therefore, the parties do not believe that ADR is appropriate for this case.” (Id.)

4. Mr. Ference, via his counsel, agreed that “ADR is [not] appropriate for this case” per the Parties’ Rule 26(f) report. (Id. p. 9.)

5. The Court has instructed the Diocese to file a “motion to exempt case from ADR . . . on or before 6/30/23.” (ECF No. 32 ¶ 5.)

6. All counsel on this case recognize and respect the benefits that often follow from litigants’ participation in this Court’s mandatory ADR program.

7. However, given the Parties’ diametrically opposed legal positions and the Diocese’s firm position that this case involves Catholic religious liberty principles that are not subject to abandonment through compromise, the Court should grant this motion and exempt this case from the otherwise mandatory ADR program.

8. Granting this motion will benefit the Parties by precluding them from unnecessarily expending time and money on an ADR procedure that will not resolve or advance the resolution of this case.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

/s/ Bernard P. Matthews, Jr., Esq.
BERNARD P. MATTHEWS, JR., ESQ.
PA. I.D. #54880
bmatthews@mdbbe.com
ALEXANDER W. BROWN, ESQ.
PA. I.D. #322661
abrown@mdbbe.com
40 North Pennsylvania Ave., Suite 410
Greensburg, PA 15601
Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532
(Attorneys for Defendant)

BALL, MURREN & CONNELL, LLC

/s/ Philip J. Murren, Esq.
PHILIP J. MURREN, ESQ.
PA. I.D. #21426
bmc-law2@msn.com
**KATHERINE M. FITZ-PATRICK,
ESQ.**
PA. I.D. #208863
fitz-patrick@bmc-law.net
DAVID R. DYE, ESQ.
PA I.D. 88665
dye@bmc-law.net
2303 Market Street
Camp Hill, PA 17011
Telephone No.: (717) 232-8731
Fax No.: (717) 232-2142
(Attorneys for Defendant)